

**Cour
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**International
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Court**

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Date: 18 March 2026

PRE-TRIAL CHAMBER I

Before: Judge Iulia Antoanella Motoc, Presiding Judge
Judge María del Socorro Flores Liera
Judge Reine Adélaïde Sophie Alapini-Gansou

**SITUATION IN LIBYA
IN THE CASE OF
*THE PROSECUTOR v. KHALED MOHAMED ALI EL HISHRI***

Public

**With confidential *ex parte* only available to the Prosecution and Victims and
Witnesses Unit Annexes 1-2**

**Public redacted version of "Prosecution's request for authorisation to submit
anonymous summaries of parts of P-0361, P-1570, P-1666, P-1692 and P-1737's
evidence" ICC-01/11-01/25-87-Conf-Exp, 17 March 2026**

Source: Office of the Prosecutor

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A. INTRODUCTION

1. On 3 December 2025, during the initial appearance of Mr Khaled Mohamed Ali EL HISHRI (“Mr EL HISHRI”), Pre-Trial Chamber I (“the Chamber”), ordered the Office of the Prosecutor (“Prosecution”) to disclose, by 11 December 2025, all materials underlying the Warrant of Arrest for Mr EL HISHRI (“the Arrest Warrant materials”).¹ An extension of the disclosure deadline for the Arrest Warrant materials was granted by the Chamber on 23 December 2025.² Accordingly, the disclosure of the Arrest Warrant materials was completed by 5 February 2026 and included three requests to withhold the identity of witnesses at the current stage of the proceedings (“Prosecution Requests to withhold the identity of 17 witnesses”).³ On 20 February 2026, the Prosecution Requests to withhold the identity of 17 witnesses were granted.⁴

2. On 28 January 2026, during the first Status Conference, the Chamber ordered the Prosecution to disclose by 19 March all materials upon which it intends to rely during the Confirmation of Charges.⁵ In addition, the Prosecution has been disclosing on a rolling basis information material to the preparation of the Defence as well as information believed to show, or to tend to show, Mr EL HISHRI’s innocence or mitigate his guilt and evidence which may affect the credibility of the Prosecution evidence.

3. The Prosecution seeks the authorisation to submit anonymous summaries of relevant parts of the evidence of five Prosecution witnesses (the five Witnesses), namely LBY-OTP-P-0361 (“P-0361”), LBY-OTP-P-1570 (“P-1570”), LBY-OTP-P-1666 (“P-1666”), LBY-OTP-P-1692 (“P-1692”) and LBY-OTP-P-1737 (“P-1737”), thereby withholding their identity, identifying information and materials at this stage of the procedure, pursuant to article 67(2), 68(1), article 68(5) and article 61(5) of the Statute, as well as rule 77, 81(2) and (4) of the Rules.

4. Disclosing the identity and cooperation of the five Witnesses may gravely endanger them or their respective families. The disclosure of anonymous summaries is the only effective measure to mitigate such risks. It strikes the appropriate balance between the obligation to

¹ T-001-ENG, 8:1-8:3 (“Chamber’s Order”); ICC-01/11-188 (“Warrant of Arrest”).

² ICC-01/11-01/25-46-Conf, para. 10 and p. 7.

³ T-003-CONF-ENG, 3:13-3:15; ICC-01/11-01/25-55-Conf-Exp (“First request for non-disclosure of identity”), a confidential redacted version (“CRV”) was filed on 28 January 2026, *see* ICC-01/11-01/25-55-Conf-Red; ICC-01/11-01/25-58-Conf-Exp (“Second request for non-disclosure of identity”), a CRV was filed on 29 January 2026, *see* ICC-01/11-01/25-58-Conf-Red; and ICC-01/11-01/25-59-Conf-Exp (“Third request for non-disclosure of identity”) a CRV was filed on 29 January 2026, *see* ICC-01/11-01/25-59-Conf-Red.

⁴ ICC-01/11-01/25-69-Conf-Exp (“Decision on non-disclosure of identity”), a CRV was filed on 20 February 2026, *see* ICC-01/11-01/25-69-Conf-Red.

⁵ T-002-CONF-ENG, 13:20-13:22 (open session).

safeguard the safety of witnesses and the preservation of Mr EL HISHRI's rights considering the stage of the proceedings, the severe objective risks faced by the witnesses and their family members, and the limited proportion of their evidence relevant to the Defence.

B. CONFIDENTIALITY SUBMISSIONS

5. This request and its annexes 1-2 are filed as Confidential and *ex parte*, only available to the Prosecution and Victims and Witnesses Unit ("VWU") in accordance with regulation 23bis(2) of the Regulations of the Court ("RoC") because of their sensitive and confidential content. Such content includes, inter alia, references to filings marked with the same classification as well as information regarding the security situation of vulnerable witnesses and investigation reports detailing security incidents.

6. The Prosecution will file confidential and public redacted versions of the present request as soon as practicable.

C. SUBMISSIONS

7. Pursuant to article 68(1) of the Statute, the Chamber is obliged to ensure the safety, physical and psychological well-being of victims and witnesses. In fulfilling this obligation, the Chamber must take all appropriate measures to safeguard their privacy and protection, while ensuring that such measures remain consistent with the rights of the accused.

8. The Court's appellate jurisprudence sets out several criteria relevant to substantiating a request for non-disclosure of witness identity:

- a) there is an objectively justifiable risk to the safety of the person concerned which arises from disclosing the information to the Defence;
- b) the non-disclosure of information could overcome or reduce the risk and it is necessary in that there is no less intrusive measure, short of non-disclosure, that is available and feasible in the circumstances; and
- c) the non-disclosure of information is proportionate, meaning that it is not prejudicial to or inconsistent with the rights of the suspect and a fair and impartial trial.⁶

⁶ Decision on non-disclosure of identity at para. 16. *See also e.g.* ICC-01/04-01/07-475, paras. 71-73; ICC-01/04-01/06-773, para. 33-34; ICC-01/12-01/18-765-Red, para. 19; ICC-01/14-01/18-273-Red, para. 26; ICC-01/12-01/18-777-Red, paras. 12-13.

9. In addition, reliance on summaries is permissible at this stage of the proceedings “[w]here the disclosure of evidence or information [...] may lead to the grave endangerment of the security of a witness or his or her family”. Articles 61(5) and 68(5) expressly provide for the use of summaries as a witness protection measure⁷ and appellate jurisprudence confirms that their use while withholding the identity of the witness “is not *per se* prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial” at this stage of the proceedings.⁸

1. Overview of the five Witnesses and their evidence

10. The Prosecution seeks authorization to withhold the identity of the five Witnesses, including their statements, materials and any identifying information, and to disclose anonymous summaries of the parts of their evidence relevant to the Defence.

11. While the five Witnesses have been detained at Mitiga Prison [REDACTED], they will not be relied upon by the Prosecution during the confirmation proceedings. Nonetheless, they provide information that falls under rule 77 and/or article 67(2), which has been included in their anonymous summaries. Their respective profiles and relevant information are as follows:

- a. P-0361 [REDACTED].⁹ P-0361 was [REDACTED] detained at Mitiga Prison [REDACTED] in 2017, during which he was visited by two men and was later told that one of them was the director of the prison. At that time, different militias were controlling various parts of Mitiga compound and they were cooperating amongst themselves. P-0361 further states that at the time of his interview [REDACTED], the entire compound was controlled by SDF/RADA and Abdulraouf Kara.¹⁰
- b. P-1570 [REDACTED].¹¹ [REDACTED].¹² His summary contains information regarding the fluctuation of Mr EL HISHRI’s presence at Mitiga Prison over the years, the dismal conditions of the cells in which detainees were kept and Mr EL HISHRI’s contributing role in exacerbating these conditions, as well as treatment of the two detainees [REDACTED].¹³ While P-1570 describes Mr EL HISHRI as cruel and violent, he did not see the latter beat anyone although he heard from other detainees that Mr EL HISHRI hung, shot and beat prisoners to death. He also mentions

⁷ See Articles 61(5) and 68 (5).

⁸ ICC-01/04-01/06-773, paras 50-51. See also paras. 40-46 as well as ICC-01/04-01/06-1980-Anx2, para. 42; ICC-02/11-01/11-74-Red, para. 35; ICC-01/12-01/18-122-Red2-tENG, paras 30-33.

⁹ Annex 2, pp. 2-5.

¹⁰ LBY-OTP-03703635.

¹¹ Annex 2, p. 6.

¹² Annex 2, p. 6-8.

¹³ LBY-OTP-03218973, p. 0001-0002.

[REDACTED] Mr EL HISHRI insult and beat women who were imploring him to stop.¹⁴ P-1570 further provides information regarding Mr EL HISHRI's brother working in the prison and his use of a shovel to beat detainees.¹⁵ He states that while Mr EL HISHRI was in charge of the Women's Section, another guard also had keys. Lastly, P-1570 indicates that extremely short family visits managed by Mr NJEEM were allowed as of [REDACTED] and that the latter opened a shop where families could purchase goods for detainees, which he characterised as "another money making scheme".¹⁶

- c. P-1666 [REDACTED].¹⁷ He mentions the frequent illnesses affecting detainees and the treatment, or lack thereof, that they received. P-1666 explains that some detainees died as a result of illnesses and recounts seeing prison workers moving dead bodies almost daily during a few weeks. He also states that following a medical examination of all detainees, 50 to 60 of them were diagnosed and isolated. P-1666 did not see Mr EL HISHRI often at Mitiga Prison although he did witness him violently punch a prisoner. When he told Mr EL HISHRI that he had been detained for years without a reason, the latter said that "he had nothing to do with it" as he was not the one who took P-1666 to the prison.¹⁸
- d. P-1692 [REDACTED]. [REDACTED].¹⁹ [REDACTED] Mr NJEEM beat a female detainee and order that another female detainee be taken out of the Women's Section for questioning and beating. He indicates that Mr EL HISHRI was absent during that time and that he saw Mr NJEEM bearing keys, which led P-1692 to believe that Mr NJEEM had the keys of the Women's Section. P-1692 further states that he never saw Mr EL HISHRI armed nor wearing a uniform in the prison and that he never heard of the latter raping anyone.²⁰
- e. P-1737 [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].²¹ P-1737 provides information regarding the structure and resources of the Naqlyya, a location within Mitiga compound where interrogations were held, [REDACTED].²²

¹⁴ LBY-OTP-03218973, p. 0002-0004.

¹⁵ LBY-OTP-03218973, p. 002.

¹⁶ LBY-OTP-03218973, p. 0004.

¹⁷ Annex 2, p. 9.

¹⁸ LBY-OTP-03214668.

¹⁹ Annex 2, p. 12.

²⁰ LBY-OTP-03214670.

²¹ Annex 2, pp. 15-16.

²² LBY-OTP-03703153.

2. Disclosure of the identity of the five Witnesses may lead to their grave endangerment or that of their families, therefore presenting objectively justifiable risks to their safety

12. The five Witnesses and their families would be gravely endangered by the disclosure of their identity and materials to the Defence at this stage of the proceedings. Therefore, objectively justifiable risks to the safety of the five Witnesses and their families would arise. In its Decision on the Prosecution's requests to authorise the non-disclosure of the identity and identifying information of 17 witnesses ("Decision on non-disclosure of identity"), the Chamber found that such risks are to be assessed on a case-by-case basis,²³ taking into consideration the following factors: (i) the witness's personal circumstances; (ii) whether there are currently protection or security measures in place for the witness; (iii) the relevant security situation in the area where the witness or his/her family currently reside; (iv) whether the witness or his/her family members have received any threats on account of his/her (perceived) involvement with the Court; (v) whether the witness him/herself has undertaken any activity to endanger his/her personal safety; and (vi) whether the witness consented that his/her identity be disclosed to the Defence (without prejudice to the Chamber's proprio motu assessment whether to disclose such identity).²⁴

a. *The five Witnesses [REDACTED] are at risk of being targeted by SDF/RADA and therefore would face a grave endangerment and an objectively justifiable risk of physical harm and intimidation*

13. Disclosing the identity of the five Witnesses would create an objectively justifiable risk to their safety [REDACTED] considering SDF/RADA's capacity and motivation to interfere with and intimidate witnesses, [REDACTED], as well as their history of doing so, [REDACTED]. SDF/RADA has an established practice of detaining or victimising family members to coerce or punish individuals. [REDACTED]. Lastly, due to the personal circumstances [REDACTED] as well as the nature of the evidence that they provide, SDF/RADA [REDACTED] have an interest in interfering with them, resulting in [REDACTED] risks to their physical safety [REDACTED]. As any identity disclosed to Mr EL HISHRI is at risk of becoming known to SDF/RADA, disclosing their identity or a redacted

²³ Decision on non-disclosure of identity, para 18, citing with approbation ICC-01/04-01/06-568, paras 1, 36, 39 and ICC-01/04-02/06-117-Red3, para. 34.

²⁴ Decision on non-disclosure of identity, para 17. *See also e.g.* ICC-01/14-01/18-273-Red, para. 27; ICC-01/12-01/15-61, para. 6; ICC-01/05-01/08-215-Red, para. 51; ICC-01/05-01/08-202, para. 10; ICC-01/05-01/08-85, para. 30.

version of their materials at this stage would result in their grave endangerment, thereby creating an objectively justifiable risk of physical harm and intimidation.

14. [REDACTED].²⁵ [REDACTED]. [REDACTED].²⁶ Witnesses [REDACTED] have been deemed to be at [REDACTED] risk of physical harm and intimidation should the identity of the Witnesses be disclosed to SDF/RADA,²⁷ [REDACTED].²⁸ [REDACTED]. [REDACTED].²⁹

15. As set out in detail in the Prosecution's Regulation 35 Application and subsequent requests, Mr EL HISHRI, his associates and SDF/RADA have both the capacity to interfere with and intimidate witnesses, [REDACTED],³⁰ as well as a history of intimidating victims and witnesses, concealing crimes and violating judicial orders.³¹ In addition, both SDF/RADA and its senior members—in particular Mr EL HISHRI [REDACTED]—are motivated to intimidate or otherwise interfere with Prosecution witnesses in this case [REDACTED].³² [REDACTED]. [REDACTED].³³

16. [REDACTED]. SDF/RADA not only has the ability to identify, track, and target the five Witnesses [REDACTED] in order to intimidate them, or otherwise interfere with their evidence.³⁴ [REDACTED].³⁵

17. [REDACTED], further exacerbates the jeopardy of the five Witnesses [REDACTED].³⁶ [REDACTED].

²⁵ [REDACTED].

²⁶ Annex 2, pp. 4-5, 7, 11, 13-14, 18.

²⁷ Annex 2, pp. 7, 11, 13-14, 18.

²⁸ Annex 2, pp. 4-5.

²⁹ Annex 2, p. 18.

³⁰ ICC-01/11/01/25-35-Conf-Exp-Corr ("Regulation 35 Application"), paras. 15-21; First request for non-disclosure of identity, paras. 10-13, 15; Second request for non-disclosure of identity, paras. 21-22; Third request for non-disclosure of identity, paras. 13 and 16.

³¹ Regulation 35 Application, paras. 22-24; First request for non-disclosure of identity, paras. 10-13, 15; Second request for non-disclosure of identity, paras. 21-22; Third request for non-disclosure of identity, paras. 13, 16.

³² Regulation 35 Application, paras. 25-27, a CRV was filed on 11 December 2025, *see* ICC-01/11-01/25-35-Conf-Corr-Red; First request for non-disclosure of identity, paras. 13 and 15; Second request for non-disclosure of identity, paras. 21-22; and Third request for non-disclosure of identity, paras. 14 and 16. *See also* ICC-01/11-01/25-76-Conf-Exp ("Request to withhold certain materials"), paras. 22-24, a CRV was filed on 12 March 2026, *see* ICC-01/11-01/25-81-Conf-Red.

³³ ICC-01/11-01/25-81-Conf-Exp, para. 15, a CRV was filed on 12 March 2026, *see* ICC-01/11-01/25-81-Conf-Red.

³⁴ Regulation 35 Application, para. 20.

³⁵ [REDACTED]. [REDACTED]; [REDACTED].

³⁶ [REDACTED]; [REDACTED].

18. As previously set out³⁷ and acknowledged by the Chamber,³⁸ [REDACTED].³⁹ [REDACTED]⁴⁰, [REDACTED]. [REDACTED].⁴¹ [REDACTED].⁴²

19. [REDACTED], indicates that SDF/RADA is [REDACTED] perceived Prosecution witnesses and acting with violence against people with a profile similar to ICC witnesses.⁴³ [REDACTED].

20. Indeed, [REDACTED];

- a. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁴⁴
- b. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁴⁵ [REDACTED].⁴⁶
- c. [REDACTED].⁴⁷
- d. [REDACTED]. [REDACTED]. [REDACTED].⁴⁸ [REDACTED].⁴⁹ [REDACTED].⁵⁰ [REDACTED].⁵¹ [REDACTED]. [REDACTED].⁵²

21. The five Witnesses and/or their families face [REDACTED] risks and may be gravely endangered by the disclosure of their identity [REDACTED]. [REDACTED].⁵³ [REDACTED]. [REDACTED]. [REDACTED].⁵⁴ [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁵⁵ [REDACTED].⁵⁶

22. [REDACTED]. [REDACTED].⁵⁷

³⁷ [REDACTED]; [REDACTED]; [REDACTED].

³⁸ [REDACTED].

³⁹ [REDACTED]. [REDACTED].

⁴⁰ [REDACTED]. [REDACTED].

⁴¹ [REDACTED]. [REDACTED]; [REDACTED].

⁴² [REDACTED].

⁴³ [REDACTED].

⁴⁴ Annex 2, pp. 2-3.

⁴⁵ Annex 2, pp. 9-10.

⁴⁶ Annex 2, p. 10.

⁴⁷ Annex 2, pp. 12-13.

⁴⁸ [REDACTED].

⁴⁹ Annex 2, p. 17.

⁵⁰ Annex 2, pp. 16-17.

⁵¹ Annex 2, p. 16.

⁵² Annex 2, p. 17.

⁵³ Annex 2, pp. 2, 4-5, 6, 7, 12, 13-14.

⁵⁴ Annex 2, pp. 2-5.

⁵⁵ Annex 2, p. 7.

⁵⁶ Annex 2, pp. 13-14.

⁵⁷ Annex 2, pp. 9-11.

23. [REDACTED]. [REDACTED].⁵⁸ [REDACTED]. [REDACTED].⁵⁹ [REDACTED].⁶⁰ [REDACTED]. [REDACTED]. [REDACTED].⁶¹ [REDACTED].

24. Lastly, despite [REDACTED],⁶² and even though the Chamber has indicated that it would be appropriate to adopt the *Protocol on the Handling of Confidential Information During Investigations and Contact Between a Party or Participant and Witnesses of the Opposing Party or of a Participant*,⁶³ there remains an inherent risk that if the materials and identity of Prosecution witnesses are disclosed to Mr EL HISHRI, they would become known to SDF/RADA. This risk is amplified by his retained authority over SDF/RADA and his close family ties to the group.⁶⁴ Even with certain interim contact restrictions in place, Mr EL HISHRI maintains contact with family members who are themselves directly in contact or involved with SDF/RADA. Any information shared with such relatives, whether deliberately or inadvertently, can easily reach individuals embedded in SDF/RADA who would be a position, and are likely motivated, to act upon it.

b. *Disclosure would risk exacerbating psychosocial risks upon disclosure of their identity*

25. In addition to the serious risks of physical harm and intimidation, all five Witnesses also face an objectively justifiable risk of psychological harm should their identity be disclosed to the Defence.⁶⁵ Their psychological vulnerability is rooted in the severity of the crimes they endured [REDACTED]. These factors, taken together, establish that disclosure at this stage [REDACTED] would place them at a foreseeable, serious, and unacceptable risk to their psychological well-being.

26. All five Witnesses face [REDACTED]⁶⁶ or [REDACTED] risks⁶⁷ to their psychosocial well-being, which would likely increase upon disclosure to the threat actor or the wider community. They suffered [REDACTED] abuse during their detention, [REDACTED].⁶⁸

⁵⁸ Annex 2, p. 18.

⁵⁹ Annex 2, p. 17.

⁶⁰ Annex 2, p. 18.

⁶¹ Annex 2, pp. 15-18.

⁶² See [REDACTED].

⁶³ See T-001-ENG, 8:13-8:16; Chambers Practice Manual, Annex, Protocol on the Handling of Confidential Information During Investigations and Contact Between a Party or Participant and Witnesses of the Opposing Party or of a Participant ("Confidential Information and Witness Contact Protocol").

⁶⁴ Regulation 35 Application, paras. 17-19.

⁶⁵ See Decision on Non-Disclosure of Identity, para. 44.

⁶⁶ Annex 2, pp. 8, 18.

⁶⁷ Annex 2, pp. 5, 11, 14.

⁶⁸ See above, para. 11.

[REDACTED].⁶⁹ As a result of their mistreatment, the five Witnesses are afflicted by numerous ailments including [REDACTED].⁷⁰

27. The disclosure of the identity of such vulnerable witnesses may exacerbate their mental suffering by raising fear of reprisal or stigmatization and thus have a severe impact on their mental health, *a fortiori* [REDACTED].⁷¹ The constant fear [REDACTED], even without the disclosure of their identity. [REDACTED]⁷² [REDACTED]. [REDACTED].⁷³ [REDACTED].⁷⁴ [REDACTED].⁷⁵ Therefore, disclosure at this stage [REDACTED] would foreseeably and materially endanger the psychological wellbeing of the Witnesses.

c. Existing protection measures are limited and do not adequately mitigate the risks to the five Witnesses and their families

28. The protection measures currently available to the five Witnesses are limited and do not meaningfully reduce the risks to their safety. As set out in the Regulation 35 Application, the Prosecution Requests to withhold the identity of 17 witnesses and [REDACTED].⁷⁶ [REDACTED].

29. As a result, [REDACTED] briefing the five Witnesses on the importance of maintaining confidentiality [REDACTED].

30. Briefing the five Witnesses on confidentiality offers no protection against risks arising from disclosure of their identity. While confidentiality briefings may reduce the chance of inadvertent disclosure by the Witnesses themselves, they provide no safeguard at all against the risks described above—namely, the dangers arising from disclosure to Mr EL HISHRI and through him and his associates or family members to SDF/RADA. They do not diminish the risk of retaliation, intimidation, or coercive tactics by SDF/RADA.

31. [REDACTED]. [REDACTED]. [REDACTED].⁷⁷ [REDACTED].⁷⁸ [REDACTED].⁷⁹ [REDACTED].

⁶⁹ Annex 2, pp. 3-4.

⁷⁰ Annex 2, pp. 3, 5, 8, 11, 14, 18.

⁷¹ [REDACTED]; [REDACTED].

⁷² Annex 2, pp. 9-10.

⁷³ Annex 2, pp. 15-18.

⁷⁴ Annex 2, p. 13.

⁷⁵ Annex 2, pp. 7-8.

⁷⁶ [REDACTED].

⁷⁷ Annex 2, pp. 4, 11.

⁷⁸ Annex 2, pp. 3, 5, 13-14.

⁷⁹ Annex 2, p. 15.

32. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

33. Finally, witnesses have taken deliberate steps to reduce their exposure. For example, [REDACTED]⁸⁰ [REDACTED].⁸¹ [REDACTED].⁸² [REDACTED].

d. The five Witnesses did not consent to their identity being disclosed

34. None of the five Witnesses have expressly consented to the disclosure of their identity and many conveyed alarming security concerns. As stated above, [REDACTED],⁸³ [REDACTED].⁸⁴ In December 2025, P-1692 [REDACTED] requested non-disclosure of his identity and identifying information [REDACTED].⁸⁵ [REDACTED] P-1737 did not consent to the disclosure of his identity at this stage of the proceedings.⁸⁶

35. [REDACTED]. [REDACTED].⁸⁷

36. The reported fears of the witnesses, as well as P-1692 and P-1737s express refusal of the disclosure of their identity at the time being, underscore the seriousness of the risks they face. When viewed against the background of SDF/RADA's demonstrated capacity and motivation to target former detainees; their history of targeting former detainees [REDACTED], including through the use of extreme violence and killings; [REDACTED]; the associated psychosocial risks and the limitations of [REDACTED] protection measures, it is clear that disclosure of the identity of the five Witnesses at this stage would expose them and their families to an objectively unacceptable level of risk.

37. [REDACTED].

3. Disclosing an anonymous summary is necessary to reduce the risk and is the least intrusive measure available

38. Due to the severity and immediacy of the endangerment that the five Witnesses may face if their cooperation with the ICC becomes known, it is necessary to disclose anonymous summaries of the relevant parts of their evidence to the Defence at this stage of proceedings.

⁸⁰ Annex 2, p. 10.

⁸¹ Annex 2, pp. 15-18.

⁸² Annex 2, p. 2.

⁸³ Annex 2, p. 10.

⁸⁴ Annex 2, p. 3.

⁸⁵ Annex 2, p. 13.

⁸⁶ Annex 2, p. 17.

⁸⁷ [REDACTED].

39. Non-disclosure of identity is necessary where no alternative measure short of anonymity can adequately safeguard the witnesses. [REDACTED].⁸⁸ Where the nature and immediacy of the risks triggered by disclosure are such that they cannot be addressed merely through confidentiality obligations, anonymity may be required. This may be the case in situations where security assessments indicate that the risks arising from any disclosure, even if inadvertent, would materialise immediately, leaving little or no opportunity to put in place adequate countermeasures.⁸⁹ Additionally, as the Appeals Chamber held, “further or ongoing investigations may be prejudiced if potential prosecution witnesses are interfered with in a manner that could lead to them being unable to cooperate with the Prosecutor.”⁹⁰

40. In the present case, disclosure of anonymous summaries is necessary considering [REDACTED]. [REDACTED]. [REDACTED]⁹¹ [REDACTED].⁹² This entails that any inadvertent or illicit disclosure of the identity of Prosecution witnesses—in particular to SDF/RADA—could trigger immediate consequences, [REDACTED]. [REDACTED].

41. While the five Witnesses provide information relevant to the Defence, they remain at risk of intimidation or physical harm. If known, their mere status as ICC witnesses would put them at risk.⁹³ Moreover, despite providing information relevant to the Defence, they are likely to be perceived as undermining SDF/RADA’s interests [REDACTED] provide incriminating information against Mr EL HISHRI, Mr NJEEM or both.⁹⁴ This includes [REDACTED] evidence of Mr EL HISHRI and Mr NJEEM beating detainees and [REDACTED] evidence of Mr EL HISHRI killing a detainee. [REDACTED]. [REDACTED]. The disclosure of the five Witnesses’ redacted materials would thus unduly increase their jeopardy and that of [REDACTED] third parties mentioned in their statements without providing information of significant additional relevance to the Defence at this stage of the procedure.

42. Furthermore, non-disclosure of the Witnesses’ identity is necessary and the least intrusive means to protect them from severe psychosocial risks and potential exacerbation of such risks.⁹⁵ As set out above, the five Witnesses are [REDACTED] vulnerable [REDACTED]. Disclosure would thus foreseeably and materially further endanger their psychological well-being. In these

⁸⁸ [REDACTED].

⁸⁹ ICC-01/12-01/15-61, para. 8. *See also* ICC-01/12-01/18-174-tENG-Red, para. 31.

⁹⁰ ICC-01/04-01/07-476, para. 49.

⁹¹ [REDACTED].

⁹² [REDACTED].

⁹³ [REDACTED].

⁹⁴ *See above*, para. 11.

⁹⁵ Third request for non-disclosure of identity, para. 41.

circumstances, anonymity is the only effective protective measure to avert predictable psychological harm and preserve the Witnesses' ability to cooperate safely.

43. Lastly, effecting disclosure of identity or redacted materials only to the Defence, with the exclusion of Mr EL HISHRI himself, is not an available option at this stage of the proceedings considering the grave endangerment that the witness would suffer in case of any inadvertent disclosure. The inherent risks are particularly acute considering SDF/RADA's influence and power permeating all levels of the Libyan society, their reported ability to [REDACTED],⁹⁶ [REDACTED]⁹⁷ [REDACTED],⁹⁸ such that even the professionalism of the Defence cannot confer sufficient security guarantees to the witnesses at this stage of the proceedings.

44. Accordingly, the disclosure of anonymous summaries is the only practical measure capable of averting the grave endangerment of the witnesses. It remains the least intrusive option available to meaningfully protect the five Witnesses and their families when considered against SDF/RADA's capability and demonstrated practice of interfering with anyone it sees as undermining its own interest.

4. Disclosing an anonymous summary is proportionate considering that only a narrow and circumscribed portion of the evidence of the five Witnesses is relevant

45. Mr EL HISHRI will not be unduly prejudiced by the disclosure of anonymous summaries of the five Witnesses' statements and relevant annexes given the scope of confirmation proceedings, the limited proportion of their evidence relevant to Mr EL HISHRI's defence, as well as the [REDACTED].

46. The circumscribed relevance of their evidence is illustrated by the conciseness of the summaries. Despite encapsulating all parts of the witness' evidence material to the Defence or that would tend to mitigate Mr EL HISHRI's guilt, the longest summary spans 4 pages while most of them comprise only 1 page. Considering the volume of documents related to each witness, with statements alone ranging from 25 and 45 pages per witnesses and additional annexes and associated materials, disclosing the information contained in the remainder of the materials would unduly expose third parties and increase the risks that the witness be identified

⁹⁶ [REDACTED].

⁹⁷ [REDACTED].

⁹⁸ [REDACTED].

if identity redactions were applied. Moreover, heavy redactions are also likely to detract from the readability of the statement. [REDACTED].

47. Disclosing their identity or an anonymous redacted version of their materials would not strike a suitable balance between the rights of the Defence, the on-going security concerns and their relevance to the case recognizing that the stage of the proceedings is a key factor to consider in balancing the interest of the victims and witnesses with that of the defence.⁹⁹

48. The limited interference with Mr EL HISHRI's fair trial rights is justified by the gravity of the risks. As demonstrated above, SDF/RADA's demonstrated capacity and propensity to target former detainees, coupled with Mr EL HISHRI and SDF/RADA's history of doing so through the use of extreme violence and killings as evidenced by the [REDACTED], and the limitations of [REDACTED] protection measures, any disclosure may gravely endanger the Witnesses [REDACTED] by exposing them to immediate and irreversible harm. In this context, the proposed disclosure of anonymous summaries represents a proportionate response at this stage of the proceedings.

D. CONCLUSION/RELIEF SOUGHT

49. For the foregoing reasons, the Prosecution respectfully requests the Chamber to authorise the disclosure of anonymous summaries of portions of the evidence provided by the five Witnesses, thereby withholding their identity, any identifying information as well as their statement and associated materials at this stage of the proceedings.

50. The Prosecution will continue assessing the risk to the safety and security of its witnesses and immediately inform the Chamber of any changes to the current security situation.

⁹⁹ ICC-01/12-01/18-586, paras. 9-10.



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Deputy Prosecutor

Dated this 18th day of March 2026
At The Hague, The Netherlands